

FILED IN CHAMBERS
U.S.D.C. - Atlanta

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA **JUL 23 2013**
ATLANTA DIVISION

James N. Hatten, Clerk
By: *AmCau* Deputy Clerk

ROY LEE MAGBY, JR.,	:	
	:	
Movant	:	CRIMINAL ACTION FILE NO.
	:	1:05-CR-96-ODE-LTW
v.	:	
	:	CIVIL ACTION FILE NO.
UNITED STATES OF AMERICA,	:	1:13-CV-1303-ODE-LTW
	:	
Respondent	:	

ORDER

This criminal case is before the Court on the Final Report and Recommendation of United States Magistrate Judge Linda T. Walker filed June 5, 2013 [Doc. 99]. No objections have been filed.

In the Report and Recommendation, the Magistrate Judge recommends that Movant's § 2255 motion be denied and that civil action number 1:13-CV-1303-ODE-LTW be dismissed. The Magistrate Judge further recommends that Movant's motion for a hearing and for counsel be denied and that a certificate of appealability be denied. Specifically, the Magistrate Judge found that the appeal waiver in Movant's plea agreement bars his claims and that even if his claims were not barred by his appeal waiver, they provide no basis for relief from his sentence.

The Court having read and considered the Report and Recommendation and noting the absence of any objections, it is hereby ADOPTED as the opinion and order of the Court. For the reasons set forth in the Report and Recommendation, Movant's § 2255 motion [Doc. 94] is DENIED and civil action number 1:13-CV-1303-ODE-LTW is DISMISSED. Movant's motion for a hearing and for counsel [Doc. 93] is DENIED and a Certificate of Appealability is DENIED.

SO ORDERED, this 23 day of July, 2013.

A handwritten signature in black ink, appearing to read 'Orinda D. Evans', is written over a horizontal line.

ORINDA D. EVANS
UNITED STATES DISTRICT JUDGE